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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,401	04/20/2004	Charles Reeves Little II	MSI-2006US	4534
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LEE & HAYES, PLLC 601 W. RIVERSIDE AVENUE SUITE 1400 SPOKANE, WA 99201			EXAMINER AVELLINO, JOSEPH E	
			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/828,401

Applicant(s)

LITTLE, CHARLES REEVES

Examiner

Joseph E. Avellino

Art Unit

2446

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,6-8,10-19 and 21-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6-8,10-19 and 21-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1, 3, 4, 6-8, 10-19, and 21-39 are pending.

Allowable Subject Matter

2. The Examiner would like to indicate that if the particular features distributed throughout the independent claims, specifically:
 - The display of the one-click option when the user is present to the particular medium; and
 - The removal of the one-click option when the user becomes unavailable to the particular medium; and
 - The automatic transfer of the unsent message upon actuation of the one-click option.

If these features were amended into, for example, claim 1, this would render this claim allowable over the prior art of record. Parallel amendments to the other independent claims would also render the other claims allowable over the prior art of record. Applicant is respectfully requested to contact the Examiner in order to move this case to allowance.

Claim Rejections - 35 USC § 112

3. The amendments to claims 11-27 have been considered. The rejection under this heading is withdrawn.

Specification

4. The Office has considered the amendments to claim 28. The objection under this heading is withdrawn.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 4, 6-8, 11-19, and 21-25 and 27-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berger (US 2004/0268265) in view of Day et al. (US 2005/0027839) (hereinafter Day)..

Referring to exemplary claim 1, Berger discloses from within a computing environment for sending a message via a user interface associated with a first communications medium (i.e. email client) (Figure 4a; ¶ 32), detecting a current live presence of a potential message recipient who can be reached via a second communications medium (i.e. use presence information from the instant messaging client to determine whether the message sender is logged in or logged off a particular account) (¶ 40);

running contemporaneously multiple communications programs (the phrase “for accessing the first and second communications media...” is a statement of intended use and therefore holds no patentable weight) (i.e. email, IM and telephony must inherently run in order to forward communication events and content information for the communication interface) (Fig. 3a, refs. 202, 204, 210, 305);

transforming the user interface to include an option of using the second communications medium (i.e. if the message sender is online, then including the option in the communication menu 400, if the user is not logged in to an account, the module may not include an option for that account...if the caller is logged in to an instant messaging account, the multi-mode communication module 300 generates an option to send an instant message within the incoming call dialog in the form of an “instant message” button) (¶ 40-41); and

activating/deactivating the second communications medium in response to the detecting (i.e. the user selects the “send IM” button in order to reply to the email via instant messaging...easily switch between communication modes) (¶ 30-33, 40-41).

displaying a one-click control option (i.e. context menu 400) for transition message delivery to the second communication medium when the recipient is present to the second communication medium (i.e. menu 400 includes entries for sending instant messages via Yahoo and AIM) (Fig. 4b).

Berger further discloses determining when the communications medium becomes unavailable (i.e. determine if the caller is logged-into instant messaging, if so, generate call dialog with IM option, if not, generate dialog with email MMS or SMS

options only) (Fig. 5) . Berger does not disclose transferring at least a part of the unsent message from the first communication medium to the second communication medium when the medium becomes unavailable. In analogous art, Day discloses another message composition system which discloses switching to a different GUI for a different medium and importing the text from an unsent message to this new GUI (§ 45). It would have been obvious to one of ordinary skill in the art to combine the teaching of Berger with Day in order to save the user time in having to retype the message from one window to another.

6. Referring to claim 3, Berger discloses transitioning to a user interface for the second communications medium in response to the detecting (i.e. an inherent feature, otherwise the user would be unable to reply to the message via instant messaging) (§ 31).

7. Claim 4 is rejected for similar reasons as stated above (a user interface for an instant messaging application is a message composition environment).

8. Referring to claims 6 and 7, Berger discloses offering a choice of sending the message to the potential recipient via the second communications medium (i.e. generate a menu based on the presence and contact information) (Figures 4a-4b; § 40-41).

9. Referring to claim 8, Berger discloses the message transfer options depend on the number of communications media to which a potential recipient is present (i.e. if a user is logged into Yahoo and AOL, offering both choices) (Figures 4a-4b).

10. Claims 11-18 are rejected for similar reasons as stated above.

11. Referring to claim 19, Berger discloses the use of address book databases (§ 29).

12. Claims 20-25, and 27-39 are rejected for similar reasons as stated above.

Claims 10 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berger-Day in view of Gang et al. (US 2008/0027909) (hereinafter Gang).

13. Referring to claim 10, Berger-Day discloses the invention as described in claim 1. Berger does not specifically disclose the sensing of multiple potential recipients. IN analogous art, Gang discloses another messaging system which discloses sending a message to a plurality of users based on their presence to a chat room, IM, or email clients (§ 69-70). It would have been obvious to one of ordinary skill in the art to combine the teaching of Gang's reply messaging system to the reply mechanism of Berger in order to provide an efficient method to disseminate information to a plurality of users based on their online presence.

14. Referring to claim 26, Berger-Day discloses the invention as described in claim 24. Berger further discloses prioritizing reply messaging based on presence information (§ 40). Berger does not explicitly disclose the use of group chat, and the use of an instant reply function for a plurality of recipients. In analogous art, Gang discloses another messaging system which discloses initiating communication using IM, a chat room, or E-mail based upon online presence (§ 7; 39-40, 69-70). It would have been obvious to one of ordinary skill in the art to combine the teaching of Gang's reply messaging system to the reply mechanism of Berger in order to provide an efficient method to disseminate information to a plurality of users based on their online presence.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (571) 272-3905. The examiner can normally be reached on Monday-Friday 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey C. Pwu can be reached on (571)272-6798. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joseph E. Avellino/
Primary Examiner, Art Unit 2446